

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

STERLING RAY MCCRARY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:07-cv-0725-WKW
)	
ALABAMA COURT OF CRIMINAL)	
APPEALS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Before the court is the plaintiff's motion for leave to appeal in forma pauperis. (Doc. # 11.) "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). In making this determination as to good faith, a court must use an objective standard, such as whether the appeal is "frivolous." *Coppedge v. United States*, 369 U.S. 438, 445 (1962). A frivolous appeal is one without arguable merit. *Sun v. Forrester*, 939 F.2d 924, 925 (11th Cir. 1991). "Arguable means capable of being convincingly argued." *Id.* (citations and internal quotation marks omitted); *see Clark v. State of Ga. Pardons & Paroles Bd.*, 915 F.2d 636, 639 (11th Cir. 1990) (defining a lawsuit as frivolous where the chances of ultimate success are slight).

Applying the foregoing standard, this court is of the opinion that the plaintiff's appeal is without arguable merit and, thus, is frivolous and not taken in good faith. Accordingly, it is ORDERED that the plaintiff's motion is DENIED. The appeal in this case is certified, pursuant to 28 U.S.C. § 1915(a), as not taken in good faith.

DONE this 16th day of November, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE